

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANA DISTASI,

Plaintiff,

-against-

MID-HUDSON VALLEY FEDERAL
CREDIT UNION,

Defendant.

Case No. 1:15-cv-8971

COMPLAINT

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DANA DISTASI (“Plaintiff”), through her attorneys, alleges the following against MID-HUDSON VALLEY FEDERAL CREDIT UNION (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the acts giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant conducts business in the this district.

PARTIES

4. Plaintiff is a natural person at times relevant residing in Milton, New York.

5. Defendant is a business entity located in Kingston, New York.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

7. In 2014, Defendant started calling (845) 594-40xx, Plaintiff's cellular telephone.

8. Upon information and belief based on the frequency, number, nature, and character of these calls, Defendant placed them using an automatic telephone dialing system or other equipment that has the capacity to store and/or produce telephone numbers ("auto dialer").

9. The purpose of Defendant's calls was to collect a debt.

10. These calls were for a non-emergency purpose.

11. On February 28, 2014 at approximately 4:01 pm, Plaintiff instructed one of Defendant's employees to stop calling her.

12. Plaintiff revoked any consent, actual or implied, for Defendant to use an auto dialer to call her cell phone.

13. Defendant continued to use an auto dialer to call Plaintiff's cell phone.

14. Since February 28, 2014, Defendant used an auto dialer to place call Plaintiff's cell phone at least seventy-three (73) times.

15. When Plaintiff answered the telephone calls, she immediately heard a pre-recorded message stating that it was an automated telephone call.

16. Defendant voluntarily and willfully used an auto dialer to place these calls.

17. Defendant intended to use an auto dialer to place these calls.

18. Defendant did not have Plaintiff's express consent to use an auto dialer to place these calls.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

19. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

20. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, DANA DISTASI, respectfully requests judgment be entered against Defendant, MID-HUDSON VALLEY FEDERAL CREDIT UNION, for the following:

21. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

22. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

23. All court costs, witness fees and other fees incurred; and

24. Awarding such other and further relief as may be just, proper and equitable.

RESPECTFULLY SUBMITTED,

DATED: November 16, 2015

By: /s/ Shireen Hormozdi
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